

# The divestiture remedies under merger control in the US, the EU and China

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# **THE DIVESTITURE REMEDIES UNDER MERGER CONTROL IN THE US, THE EU AND CHINA**

A Comparative Law and Economics Perspective

Mengmeng Shi

1. The competition agencies in the US and the EU have different preferences regarding merger divestiture policies. Due to increasing cooperation and coordination of enforcement between these two entities, convergence regarding the development of the enforcement of merger divestiture policies can be observed.
2. Risk-reducing provisions (such as up-front buyer provisions and crown jewel provisions) used by the competition agencies in the US and the EU, if designed and implemented well, can effectively alleviate risks that can occur in merger divestitures.
3. In contrast to the US and the EU preference for divestitures, MOFCOM (the Ministry of Commerce of P. R. China) does not have such a preference. Particularly, behavioural remedies are much more prevalent than divestitures in China.
4. MOFCOM's merger divestiture policies can, to some extent, reduce the possible divestiture risks.
5. China partially transplanted US and EU legislation into its own competition law, whereas it re-contextualises the contents to its particular institutional features. Empirical studies should be carried out to assess the effectiveness of the transplanted competition law and merger remedy policies in the context of China.
6. MOFCOM should lay more emphasis on protecting consumers and strike a balance between competition policies and industrial policies.
7. Government authorities in China, such as MOFCOM, can learn from academic exercises like this research and may equally benefit from a stronger collaboration with academics.
8. The aims of conducting a PhD research abroad is not only to obtain a doctorate degree, but also to broaden one's horizon, change the way of thinking and enrich one's perspectives of observing the world.